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8 Attorneys for Defendant,  
9 ASC THERAPEUTICS, INC.

10 UNITED STATES DISTRICT COURT  
11  
12 NORTHERN DISTRICT OF CALIFORNIA  
13 SAN JOSE DIVISION

14 LAN FENG, an individual,

15 Plaintiff,

16 v.

17 ASC THERAPEUTICS, INC., a Delaware  
18 corporation, and DOES 1-50, inclusive,

19 Defendants.

Case No.: 5:22-cv-2154

State Court Case No. 22CV393988

**DEFENDANT'S NOTICE OF  
REMOVAL PURSUANT TO 28 U.S.C.  
§§1331, 1441(a)**

**FEDERAL QUESTION  
JURISDICTION**

**TO THE CLERK OF THE ABOVE-ENTITLED COURT AND TO PLAINTIFF AND  
HER ATTORNEYS OF RECORD:**

PLEASE TAKE NOTICE that Defendant ASC Therapeutics, Inc. (“Defendant”) hereby removes to this Court the state-court action described below, and states that removal is proper for the reasons set forth below:

**BACKGROUND**

1. On January 31, 2022, an action was commenced in the Superior Court of the State of California in and for the County of Santa Clara, entitled *Lan Feng v. ASC Therapeutics, Inc.*, as Case Number 22CV393988, attached hereto as Exhibit A. Defendant is the only named defendant in the Complaint.

2. Defendant was served with the Complaint, a Summons, and a Civil Lawsuit Notice from the said state court via a Notice and Acknowledgment of Receipt – Civil, with service effective on March 7, 2022. This removal therefore is timely because Defendant has filed it within 30 days of service of the Summons and Complaint as required by 28 U.S.C. §1446(b). True and correct copies of the Summons, Notice and Acknowledgment of Receipt, and other related court documents received by Defendant are attached as Exhibit B.

3. On April 4, 2022, Defendant filed and served its Answer to Plaintiff’s Complaint in the Santa Clara County Superior Court. A true and correct copy of Defendant’s Answer is attached as Exhibit C.

4. In accordance with 28 U.S.C. §1446(d), the undersigned counsel certifies that Defendant will promptly serve Plaintiff’s counsel a copy of this Notice of Removal and file it with the Clerk of the Santa Clara County Superior Court. Therefore, all procedural requirements under 28 U.S.C. §1446 have been satisfied.

5. Venue of this action lies in the United States District Court for the Northern District of California pursuant to 28 U.S.C. §§1441 *et seq.*, and 1391 because this is the judicial district of this Court in which the action arose, and where the claims arose.

6. Assignment to the San Jose Division is proper because “all civil actions that arise in

the count[y] of Santa Clara...shall be assigned to the San Jose Division.” Northern District of California Local Rule 3.2(e).

**FEDERAL QUESTION JURISDICTION**

7. Federal “district courts shall have original jurisdiction of all civil actions under the Constitution, laws, or treaties of the United States.” 28 U.S.C. §1331.

8. “[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant...to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. §1441(a).

9. This action is a civil action of which this Court has original jurisdiction under 28 U.S.C. §1331, and is one which may be removed to this Court by Defendant pursuant to the provisions of 28 U.S.C. §1441(a) in that Plaintiff’s third cause of action arises under federal law, specifically, the Federal False Claims Act, 31 U.S.C. §3730. Accordingly, Plaintiff’s claim presents a federal question that supports removal of this matter to this Court.

Dated: April 5, 2022

HIXSON NAGATANI LLP

By Brian K. Nagatani  
BRIAN K. NAGATANI

Attorneys for Defendant,  
ASC THERAPEUTICS, INC.

**PROOF OF SERVICE**

I, Yahaira Ortiz, declare that I am over the age of eighteen years and I am not a party to this action. My business address is 2021 The Alameda, Ste 240, San Jose, CA 95126.

On April 5, 2022, I served the following document(s):

1. **DEFENDANT'S NOTICE OF REMOVAL PURSUANT to 28 U.S.C. §§1331, 1441(a)**
2. **CIVIL COVER SHEET**
3. **DEFENDANT ASC THERAPEUTICS, INC.'S CERTIFICATION OF INTERESTED ENTITIES OR PERSONS**

on the interested parties in this action by the service(s) marked below:

**David Markevitch  
Damion Robinson  
Adeline Black  
Affeld Grivakes LLP  
1261 Lincoln Avenue, Suite 208  
San Jose, CA 95125  
Email addresses: dm@agzlaw.com, EFiling@agzlaw.com,  
nv@agzlaw.com, pb@agzlaw.com**

☐ **BY MAIL:** I am readily familiar with the business' practice for collection and processing correspondence for mailing with the United States Postal Service. I know that the correspondence was deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelopes were sealed, and with postage thereon fully prepaid, placed for collection and mailing on this date, following ordinary business practices, in the United States mail at San Jose, California.

☒ **BY EMAIL:** I served the above document(s) to the email addresses listed above by electronic transmission.

☐ **BY OVERNIGHT DELIVERY:** I caused such envelopes to be delivered to the above parties on the following business day by FEDERAL EXPRESS service as listed on the attached Service List.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that this declaration is executed on April 5, 2022, in San Jose, California; and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

  
Yahaira Ortiz